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SEP 15 1993

September 15, 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

By Hand

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

NOTICE OF WRITTEN
EX PARTE PRESENTATION

Re: Inmate Calling Services/Billed Party Preference
CC Docket No. 92-77

Dear Mr. Caton:

Enclosed are two copies of a written Ex Parte communication transmitted to Mark Nadel in the above-referenced docket.

Sincerely,


David B. Jeppsen

DBJ/hlh

Enclosures

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A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND

Mark Nadel, Esq.
Federal Communications Commission
Room 544
1919 M Street, NW
Washington, DC 20554

Re: Inmate Calling Services/Billed Party Preference
CC Docket No. 92-77

Dear Mark:

The purpose of this letter is to follow-up on an important point concerning why, if billed party preference is adopted as proposed, inmate-only phone systems should not be covered. Since the Inmate Calling Services Providers Task Force ("ICSPTF") last filed comments in this docket, we have had several in-depth discussions with independent inmate callings services ("ICS") providers. One point that these independent providers make exceedingly clear is that they will not be able to remain in the marketplace should billed party preference, as it is currently contemplated, apply to their operations. The Commission should be concerned that many correctional facilities -- particularly those in the less-profitable rural areas -- may not be unable to obtain inmate-only service should independent ICS providers be forced out of the market.

The importance of independent ICS providers is strongly illustrated in the case of North Carolina. As shown in Exhibit 1, prior to the advent of independent competition in that state, only three correctional facilities procured inmate-only service from the local LECs. Other facilities, such as the Buncombe County Jail in Ashville, North Carolina, were denied inmate-only service because

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Mark Nadel, Esq.
September 15, 1993
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it was not profitable for the LECs.¹ Independent ICS providers now serve more than eighty (80) correctional facilities in North Carolina -- a significant increase above the three facilities that had inmate-only service prior to competition.

While the competitive prod of independent ICS providers is provoking a response by many LECs, it is the independent ICS providers who are responsible for bringing enhanced service and innovation to the inmate calling market. Indeed, many of the special control features associated with inmate-only services are directly attributable to independent competition. For example, Exhibit 3 provides an illustration of a typical -- yet elaborate -- inmate-only system used by independent ICS providers. Independent ICS providers are willing to incur the significant capital expense necessary to install these systems -- even at the less-profitable locations -- since they are committed to serving the needs of correctional facilities.

The North Carolina example is not unusual. The fact is that independent ICS providers are often the only source of inmate-only service for correctional facilities. Should billed party preference, as currently proposed, be applicable to the inmate environment, these independent providers will have no choice but to cease their operations since they will not be able to recoup the significant capital investment they incur. The end result may be that fewer correctional facilities will be able to offer inmate-only phones.

We urge the Commission to consider this point, as well as the other unique characteristics of the inmate market as ICSPTF and others have shown in this proceeding, and determine that billed party preference should not apply to the inmate calling services market.

¹ See Exhibit 2, which contains excerpts from the testimony of Randall Ray, the Captain of the Buncombe County Jail, given before the North Carolina Public Services Commission. Mr. Ray states that the local LEC for his facility refused to install inmate-only phones at his facility because, as he was told by the LEC, "it was not economically feasible" (Exhibit 2, page 10, lines 3 through 12.)

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Mark Nadel, Esq.
September 15, 1993
Page 3

Please call me if you have any questions.

Best regards,

A handwritten signature in cursive script, appearing to read "Albert H. Kramer", written over a horizontal line.

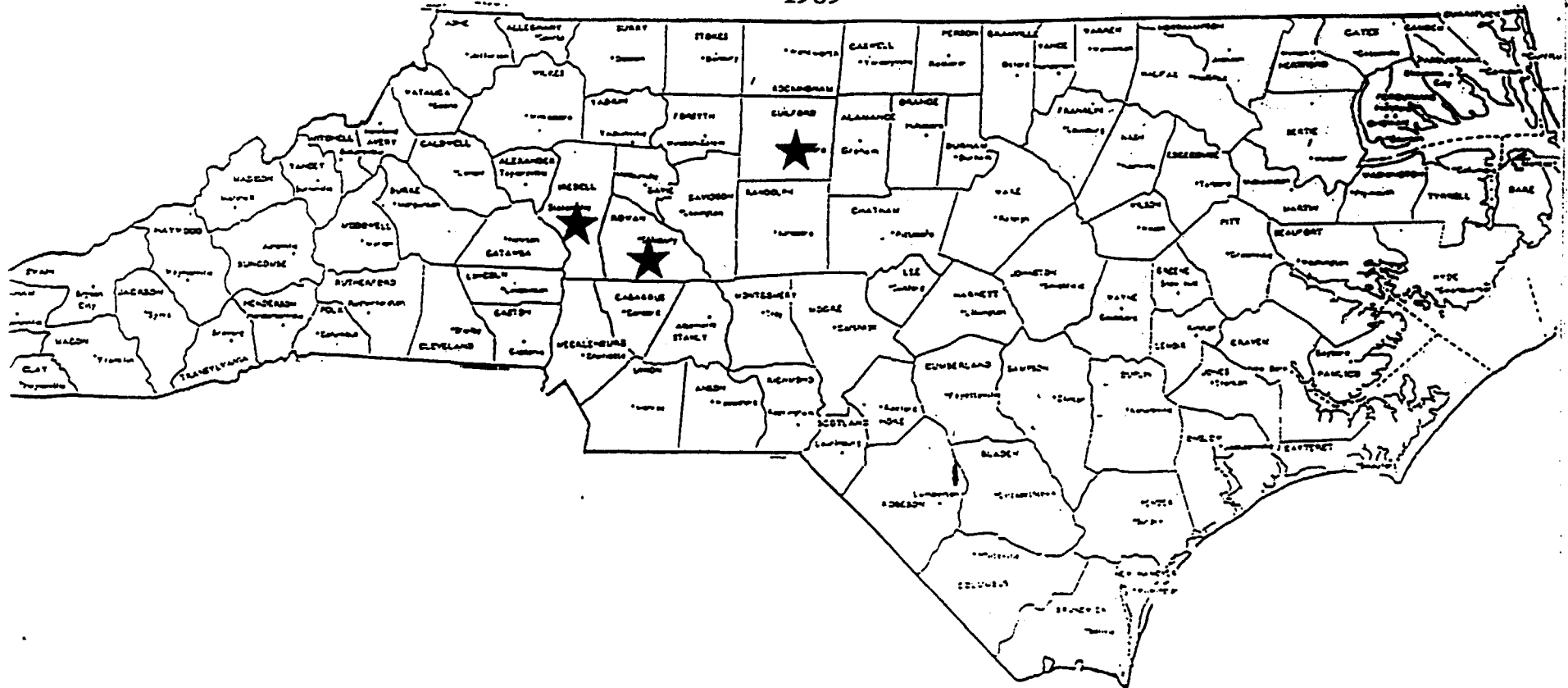
Albert H. Kramer
David B. Jeppsen
Counsel for the Inmate
Services Providers Task
Force

AHK/hlh

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EXHIBIT 1

1989



1993

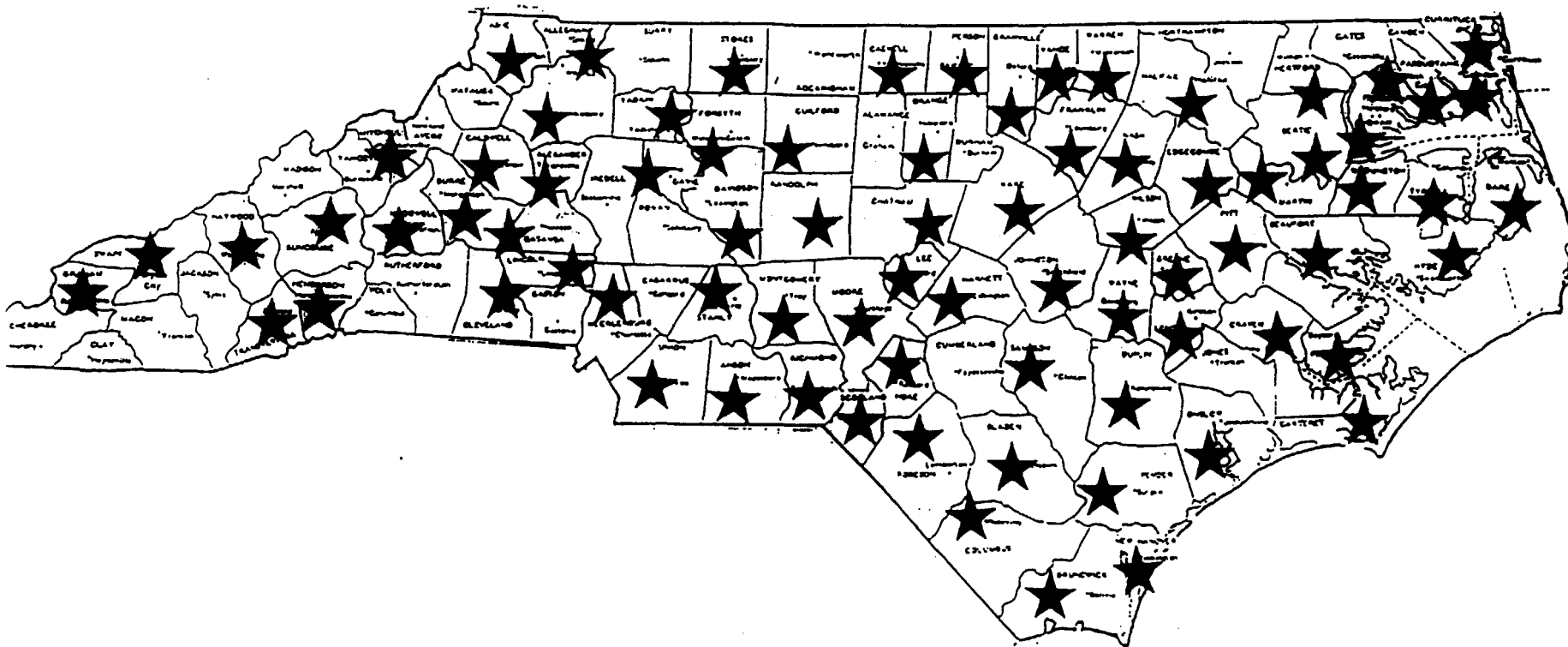


EXHIBIT 2

1 MR. FRUITT:

2 Mr. Chairman, we have four witnesses
3 which I have agreed to call and assist which I
4 would term "public witnesses" and they are all
5 from county law enforcement and the first one
6 I would like to call would be Captain Randall
7 Ray of Buncombe County.

8 RANDALL RAY, Being first duly sworn,

9 Testified as follows:

10 DIRECT EXAMINATION

11 MR. FRUITT:

12 Q Would you please give your name and
13 position, sir, with Buncombe County?

14 A I am Randall Ray. I am Captain of the
15 Jail Division for Buncombe County Jail.

16 Q So you are involved in the jail on a
17 day-to-day basis I take it?

18 A Yes, sir, I am.

19 Q Now, sir, what type of phone service
20 have you historically had in Buncombe County as
21 far as prisoners in the jail?

22 A We had two coin telephones that were
23 located outside of the cell block and close to
24 the jailer supervisor's office. It required us

1 to take inmates out of the cell, sometimes transport-
2 ing them three floors and they made their phone
3 call under the supervision of the jail staff.

4 Q Did they get to make a lot of calls
5 with that procedure, sir?

6 A If they were lucky probably every two
7 weeks.

8 Q Every two weeks?

9 A Yes, sir.

10 Q Now at the present time does Buncombe
11 County have installed E-Z Collect telephones
12 or the IntelliSTAR which has been referred to
13 technology?

14 A Yes, sir, we do.

15 Q Can you please explain to the Commission
16 what impact that's had on the ability of the inmates
17 to make calls and how it has assisted or caused
18 you problems or whatever?

19 A Yes, sir. We had the pay telephones
20 installed in each cell block, of which we have
21 13 that are used actively. The inmates have access
22 to these phones from 5:30 in the morning until
23 11:00 at night, requires no jailer supervision
24 which has released probably 30 or 40 manhours

CAPTAIN JAIL
DIVISION
BUNCOMBE COUNTY

CAPTAIN RAY
RANDALL
~~BOW~~

1 a week of supervising phone calls. It has also
2 added to the security of the institution. We
3 had at one time a jailer while he was affecting
4 a phone call for a prisoner had his head split
5 open requiring sixteen stitches. That was because
6 we took the prisoner out of the cell.

7 Q Now you said they were available from
8 5:30 to 11:00 and I guess that is 11:00 at night.

9 A Yes, sir.

10 Q Now do you cut the phones off at that
11 point?

12 A No, sir, the prisoners are locked back
13 in individual cells so they can't physically reach
14 the phone.

15 Q Now with the E-Z Collect phones that
16 you have in your cell blocks now, why did you
17 not just put regular phones in the cell block,
18 regular payphones?

19 A We felt like, first of all, that if
20 coins were available that damage to the phones
21 trying to retrieve the coins would be a possibility.
22 We are also looking at building a new institution
23 and at that time we will not have any money in
24 the jail.

1 Q So, in other words, you are trying to
2 get away from coins in the prison system?

3 A We will be doing away with them, yes,
4 sir.

5 Q Now is there a problem with the traditional,
6 what we think of as coin telephone as far as the
7 ability of an inmate to get a live operator?

8 A Yes, sir.

9 Q What is the problem that if the inmate
10 can get a live operator through a traditional,
11 what we think of as coin telephone?

12 A We have had prisoners who sold a credit
13 card number to other prisoners and we have had
14 people who called and said they had several hundred
15 dollars worth of phone calls billed to them that
16 they were not responsible for.

17 Q Is what you are saying is if the prisoners
18 can get a live operator, the chances of fraud
19 are increased dramatically as far as the confinement
20 center, sir? Is that effectively what you are
21 saying?

22 A Significantly, yes, sir.

23 Q Did you go to---let me ask you this.
24 Who is your local telephone company provider in

1 Asheville?

2 A Southern Bell.

3 Q Southern Bell. Did you approach Southern
4 Bell and ask for assistance on coming up with
5 some mechanism where you could have phones more
6 readily available to the prisoners in the cell
7 blocks?

8 A Yes, sir, we did approximately six years
9 ago, we contacted them. They sent a representative
10 up and he said there was no way they could do
11 anything, it was not economically feasible for
12 them to put phones in.

13 Q Now with the E-Z collect telephones,
14 am I correct they do not require any coins?

15 A No, sir, they do not.

16 Q And are they collect-only, sir?

17 A Yes, sir, they are.

18 Q Can they be programmed so that an inmate
19 cannot get a live operator also?

20 A They have been done that way, yes, sir.

21 Q Are the phones in your installation
22 programmed so that the inmates do not get a live
23 operator?

24 A That is correct.

EXHIBIT 3

